

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 06-0307P**

**Sales Tax**

**For the months of January and February 2006**

NOTICE: Under IC § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superceded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

I. **Tax Administration** – Penalty

**Authority:** IC § 6-8.1-10-2.1(d); 45 IAC 15-11-2;

The taxpayer protests the late penalty.

**STATEMENT OF FACTS**

The late penalty was assessed on the late filing of monthly sales tax returns for the months of January and February 2006. The taxpayer is an Indiana resident.

I. **Tax Administration** – Penalty

**DISCUSSION**

The taxpayer requests the penalty be abated as the taxpayer's employee responsible for the tax filings had medical conditions. Also, the taxpayer cites a quality compliance record.

The Department points out the taxpayer is responsible for tax compliance that includes the duties performed by the taxpayer's employees even if the employee has medical conditions that preclude the proper performance of tax duties.

With regard to tax compliance, the Department notes the taxpayer has had eight late billings in the recent past. This is a compliance record that would not be a factor in the abatement of penalty.

The regulation which controls the application of penalty is 45 IAC 15-11-2(b) which states,

Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer.

Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

The Department finds the taxpayer was inattentive of tax duties. Inattention is negligence and negligence is subject to penalty. As such, the Department finds the penalty proper and denies the penalty protest.

### **FINDING**

The taxpayer's penalty protest is denied.